

Retirement News for Employers

Helping Business Owners with Retirement Plans

Internal Revenue Service Tax Exempt and Government Entities

Volume 1, Summer 2004

Another Way to Spell “Relief”: E-P-C-R-S

Inside This Issue

**How to Subscribe to
*Retirement News for Employers***
page 3

Can’t Find a Beneficiary?
page 3

All You Ever Needed to Know...
page 4

**Product Profile: 401(k) Plans for
Small Businesses Publication**
page 4

Net Gains
page 5

**New Program to Assist Small
Employers...**
page 5

The Filing Cabinet
page 6

Short Stories
page 7

**Calendar of Events
and Deadlines**
page 8

Perhaps in some future world, an employer will purchase a pension plan, plug it in, stand back and casually watch its smooth, flawless operation. But today, any employer with a plan knows this is not the case: a pension plan is complex and you as plan sponsor need to be ever-vigilant – both to its form and to its operation. First, your plan is subject to occasional renovation as pension laws and rules get changed. And, second, you cannot simply let down your guard because your plan is state-of-the-art: once launched, your plan must also be operated correctly and in accordance with its written terms.

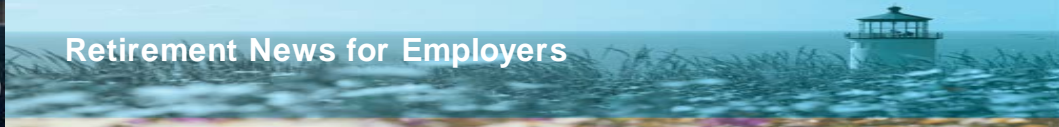
The IRS recognizes the challenge. Even those employers who sponsor large plans and have hired crews of experts – administrators, attorneys, actuaries – occasionally have their plans drift off course: new law provisions might not be adopted timely; eligible employees might not participate just when they should; distributions might be made when they shouldn’t be made – such are just a few of the common failures that may occur.

The IRS is well aware that mistakes can and do happen. That’s why the IRS has in place a system that lets you bring your plan back into compliance without losing its tax benefits: the Employee Plans Compliance Resolution System, or “EPCRS”. EPCRS encompasses three distinct correction programs: 1) the Self-Correction Program; 2) the Voluntary Correction Program; and 3) the Audit Closing Agreement Program.

This article gives you a general sense of which direction you need to go and what you’ll need to do in order to get your plan back into the fold of compliance. An expanded version of this article is posted under the “How Do I Fix a Plan Mistake?” section of the “Retirement Source for Plan Sponsors” portion of the Retirement Plans web page at www.irs.gov/ep.

Ideally, the failure will be resolvable under the Self-Correction Program, or “SCP”, because you: 1) do not contact the IRS and 2) do not pay any fee to the IRS as a penalty for the failure.





In short, when it comes to plan mistakes, mid-audit is not the time to start thinking seriously about self-correction.

To see the “director’s cut” - an expanded version - of this EPCRS article, go to the “Retirement Source for Plan Sponsors/ Employers” at the [Retirement Plans](#) web page and then click on “How Do I Fix a Plan Mistake?”.

Sound good? Well, yes, but not all plan failures are equal, or equally eligible for SCP. The [EPCRS Revenue Procedure](#) provides the eligibility requirements for using SCP but, generally, self-correction is limited to operational failures – i.e., the failure to follow the terms of the plan – and the failure may be “significant” but must not be “egregious”. (The procedure gives helpful hints regarding the difference between “significant” and “egregious.”) Also, self-correction is available, generally, only for plans not currently under examination by the IRS.

If you are eligible to correct under the SCP, then you must correct – or at least substantially correct – the failure within two years of the end of the plan year in which the failure occurred. Your correction must be in accordance with the “General Correction Principles” listed in the procedure. ([Appendix A](#) of the procedure describes the most common operational failures and the acceptable correction methods.) Insignificant operational failures are, of course, also eligible for self-correction.

But what if the plan failure is not eligible for relief under the SCP? Say, if the failure is operational but egregious, or isn’t operational at all but, rather, a plan document failure (late- or non-amendment, for example)? There’s still room for you under the EPCRS umbrella: the Voluntary Compliance Program, or “VCP”, may allow you to bring your plan in to the IRS for correction.

Is your plan ailing? If so, give it a shot of vitamin EPCRS.

Unless you’ve already been notified that your plan is under examination, you should still be able to correct but you will need to contact the IRS. The procedure will give you precise instructions regarding what you’ll need to provide, and where to mail the submission. You will have to identify each failure and its duration, indicate what correction you have made or propose to make and indicate what specific measures you have taken to ensure that the failure will not happen again. And where the correction involves making changes to your plan document, you will also most likely need to submit simultaneously a determination letter application with its applicable fee. Finally, you will also have to include payment of a pre-established fee based on the number of participants in your plan, as specified in the procedure.

The IRS will review your application and will provide a compliance statement setting forth the agreed terms of correction. Among other things, this document will state that any proposed correction must be made within 150 days from the date the Statement is issued.

There remains one, less attractive, way for you to correct failures in your plan: entering into a “Closing Agreement” under the Audit Closing Agreement Program, or “Audit CAP”. Audit CAP is for a failure discovered by the IRS, typically during an examination of a plan. After the IRS uncovers a failure and the plan faces potential disqualification, you may be given the opportunity to make full correction and to pay a sanction amount negotiated with the IRS, basically a percentage of the tax that would be due if the plan were disqualified.

In summary: Plan mistakes happen. EPCRS is both the IRS’s acknowledgement of this reality and a structured approach to dealing with it. Hopefully, you won’t have a need to turn to EPCRS, but should that need arise, by all means do so. ■



Can't Find A Beneficiary?

How to Subscribe to Retirement News for Employers

The *Retirement News for Employers* will be issued only through IRS e-mail. For your free subscription, please go to the [Retirement Plans](#) web page and subscribe on-line by selecting "Retirement Source for Plans Sponsors/Employers" and then "Retirement News for Employers". All editions of the *Retirement News for Employers* will be archived at the [Retirement Plans](#) web page.

For your convenience, we have included Internet links to referenced materials throughout the electronic version of *Retirement News for Employers*. These links are identified on the printed version by the underlined text. The electronic version may be found at the [Retirement Plans](#) web page.

Many employers discover that finding missing participants can be next to impossible. However, plan sponsors are required to use all reasonable means to locate a participant. One option available to a sponsor is the IRS Letter Forwarding Program.

This program is available to individuals, companies, Federal agencies and is especially useful to plan sponsors and administrators, who are attempting to locate missing plan participants. ***For requests involving 49 or fewer recipients there is no charge.***

So far, in 2004, the IRS has forwarded more than 132,000 letters to missing participants. According to Sharlonda Smith, Letter Forwarding Program administrator, these requests involve more than \$11 million in distributions to those missing participants.

The IRS Disclosure Office can forward letters from plan administrators to missing individuals if the administrator provides the following information:

1. A brief explanation why they want to use the program (for example, to locate a missing plan participant is sufficient);
2. The names of the missing individuals;
3. The social security numbers (SSN) of the missing individuals; and
4. The letters being forwarded. A separate letter should be addressed to **each** participant involved and it should include a statement asking the participant to contact the plan administrator **directly**.
5. Agreeing to pay the fees involved with use of the program.

IMPORTANT: The SSN is the key element used to access the right tax account and get a mailing address. **The letter cannot be forwarded if a SSN is not furnished.**

If an address is located, the letter will be forwarded in an IRS envelope. The recipient (missing participant) will be advised that:

1. The IRS is forwarding the letter in accordance with current policy;
2. It has not divulged the recipient's address nor any other tax information, or the fact that the letter has even been forwarded;
3. The IRS has no involvement in the matter aside from forwarding the letter; and
4. The decision of whether to respond is entirely up to the recipient.

Due to disclosure laws, the IRS cannot provide the requester with the results of the mailing. The IRS can only state that it will forward the letter if an address for the missing individual was located. All letters returned undeliverable will be destroyed. Note that the Letter Forwarding Program cannot be used to collect outstanding plan payments from missing participants under the Employee Plans Compliance Resolution System (EPCRS).

The [Retirement Plans](#) web page has more information about the Letter Forwarding Program. Just click on "Retirement Source for Plan Sponsors/Employers" and then go to "Find a Lost Participant".

Because of the high volume of requests, response time is based on the overall workload of the Disclosure Office. ■



All You Ever Needed to Know About Dollar Limits

Employee Plans (EP) has gathered all the dollar limit numbers you need to know but didn't know where to find and put them on the [Retirement Plans](#) web page.

What do we mean by "dollar limits"? Well, for example, you'll find the maximum you can contribute to an IRA and deduct. Or, you can find the limit on compensation that can be taken into account when figuring out retirement plan contributions (FYI: it's \$205,000 in 2004). We have dollar limits starting in 1989 and continuing all the way through 2004.

IRS employees contributing to this edition of the *Retirement News for Employers* are:

**Bob Brambilla
John DeJong
Evelyn DeWald
Larry Isaacs
Joyce Kahn
Teresita Laureano
Peter McConkey
Todd Newman
Mark O'Donnell
Nancy Payne
Irving Porter
Donna Prestia
John Schmidt
Sharlonda Smith
Brenda Smith-Custer
Susan Taylor**

Some of the most requested limits are the defined benefit and defined contribution dollar limits (\$165,000 and \$41,000, respectively, for 2004) and the threshold for including eligible employees under a SEP or SIMPLE plan (\$450 in 2004). However, some lesser known figures are given as well. For example, the chart has the deferral limit for section 457 plans (\$13,000 in 2004) and amounts for determining who is a "Control Employee" – for purposes of valuing fringe benefits – as defined by section 1.61-21(f)(5) of the regulations (for subsection –21(f)(5)(i), the 2004 amount (\$80,000) is unchanged from 2003 while for subsection –21(f)(5)(iii), the 2004 amount (\$165,000) is an increase from the 2003 amount (\$160,000)).

So, if there are some dollar limitations that you have been searching for but didn't know where to look, just click on [COLA Table](#) or go to the [Retirement Plans](#) web page, click on Published Guidance and go to "Cost-of-Living-Increases".

P.S. Look for the 2005 figures to get posted in October or November. ■

Product Profile – *401(k) Plans for Small Businesses Publication*

Are you considering establishing a 401(k) plan for your small business? Does your small business sponsor a 401(k) plan? Do you have questions about some of the rules and requirements of your 401(k) plan?

The IRS and the Department of Labor's Employee Benefits Security Administration (EBSA) have issued a joint publication to provide answers to your questions. *401(k) Plans for Small Businesses* is a plain-language publication that provides basic information on establishing and operating 401(k) plans, such as adopting a written plan, contribution limits and fiduciary responsibilities. It also describes three available 401(k) plan designs – traditional, safe harbor and SIMPLE 401(k) plans – and discusses the features and advantages of each. In addition, it discusses the DOL and IRS correction programs that help 401(k) plan sponsors fix plan errors, protect participants and keep the plan's tax benefits. Finally, the publication provides additional resources if you need more in-depth information.

This publication, as well as additional information on 401(k) plans, can be found on the IRS and EBSA websites, www.irs.gov/ep and www.dol.gov/ebsa. Copies of the publication can be ordered by calling either (800) 829-3676 (IRS) or (866) 444-3272 (EBSA). Both numbers are toll-free. ■

Interested in more plain-language retirement info?

Check out our ever-growing stock of pubs, brochures and other help-filled products.

Just go to "Forms and Pubs" by clicking on "Retirement Source for Plan Sponsors/Employers" on the [Retirement Plans](#) web page.

Net Gains

Welcome to *Net Gains*, the column devoted to providing you with the latest [Retirement Plans](#) web page information.

For those of you new to the [Retirement Plans](#) web page, this portion of the IRS web site contains almost everything you want to know about retirement plans but didn't know where to find it.

For example, a recent addition to the [Retirement Plans](#) web page is:

The “Retirement Source for Plan Sponsors/Employers”

At the *Source*, you'll find info targeted just for you: the employer or business owner. Among the information you'll find at the *Source* are:

- **FAQs** (and answers) on retirement plans;
- Various “**How Do I...**” topics;
- Retirement **seminars** geared toward small businesses;
- **Forms and Publications**; and
- Much, much **more**

So, if it's retirement information you need, go direct to the *Source*.

Event Index

Interested in attending an educational event where you can hear an IRS specialist speak about Retirement Plans or where you can have a one-on-one discussion with an agent and pick up our latest promotional products? Then visit the *Source* at the [Retirement Plans](#) web page and select the new “Upcoming EP Educational Events” to see a list of speeches, panels, workshops and exhibiting events where IRS Employee Plans will be present. The list provides the name, date and location of the event. It also provides a contact person who can give you additional information on the event. ■

New Program to Assist Small Employers with Their Retirement Plans

The Department of Labor's (DOL) newest compliance assistance program – ***Getting It Right – Know Your Fiduciary Responsibilities*** – will increase awareness and understanding about the basic fiduciary responsibilities when operating a retirement plan.

Getting it right, however, can be challenging. This is especially true for small and medium sized employers who have limited time, resources, and access to professional help with benefit programs.

Specifically, getting it right means:

- Understanding your plan and your responsibilities;
- Carefully selecting and monitoring service providers;
- Making contributions on time;
- Avoiding prohibited transactions; and
- Making appropriate disclosures to plan participants and filing annual reports to the government on time.

The Department's new program combines free seminars around the country, new educational materials, and a dedicated webpage. With the valuable participation of DOL's partners, ***Getting It Right*** will offer a helping hand to those who want to do the right thing.





The free, one-day seminars currently scheduled are Burlington, Massachusetts on September 8; Phoenix, Arizona on September 23; and Kansas City, Missouri on October 5. The seminars are open to the first 200 registrants. The IRS will join DOL/EBSA at the seminars to discuss the key tax qualification issues. There will also be a discussion of both agencies' voluntary correction programs. See the seminar agenda below for more information or go to www.dol.gov/ebsa for the registration pamphlets. For questions or to register for the seminars, contact Norma Mannix, Coordinator, Fiduciary Education Campaign, Tel. (202) 693-8684, Fax: (202) 219-8141, or Email: mannix.norma@dol.gov

All attendees will receive a kit of information that includes two new publications – “Meeting Your Fiduciary Responsibilities”, and “Selecting an Auditor for Your Employee Benefit Plan.” In addition, there is a significantly expanded publication, “Understanding Your Retirement Plan Fees and Expenses.” The “Reporting and Disclosure Guide” and the “Retirement Plans Correction Programs” publications are also included in the kit. The [publications](#) are available electronically or by calling toll-free (866) 444-EBSA (3272).

The Department's Employee Benefits Security Administration is sponsoring the Campaign in partnership with the Society for Human Resource Management, the National Federation of Independent Business, the U.S. Chamber of Commerce, the American Institute of Certified Public Accountants, and the U.S. Small Business Administration. ■

Contacting Employee Plans

The *Retirement News for Employers* welcomes your comments about this edition and/or your suggestions for future articles.

Send comments/suggestions to:

EP Customer Education & Outreach
SE:T:EP:CEO Room 4C3
1111 Constitution Avenue, N.W.
Washington, DC 20224
Fax: (202) 283-9525
e-mail: RetirementPlanComments@irs.gov

For EP Taxpayer Assistance

For retirement plans technical and procedural questions:

Please call (877) 829-5500 or visit the EP Customer Account Services section of the [Retirement Plans](#) web page.

For questions relating to retirement income, IRAs, Roth IRAs, educational IRAs, medical savings accounts and section 125 cafeteria plans:

Please call (800) 829-1040

For further Retirement Plan Information

Please go to the [Retirement Plans](#) web page.

The Filing Cabinet

Forms – you can't live with them, you can't live without them. Just like you use forms when running your business – everything from spreadsheets to receipts to invoices – you also use some forms when operating a retirement plan. And just as your business forms sometimes change, retirement forms also sometimes change. So to help you keep current with retirement form developments, we're introducing *The Filing Cabinet*. Stories in *The Filing Cabinet* will keep you up to date on the stuff you need to know when you're filing retirement forms. And so, without further ado, the first *Filing Cabinet*:

Form 5500

The [Form 5500](#), *Annual Return/Report of Employee Benefit Plan*, along with its related schedules and instructions has been revised for 2003. Although the annual revisions were minor in scope, there was a significant development in the way the material was delivered to its potential users.

In a departure from prior practice, the government – IRS, DOL/EBSA and PBGC – did **not** mail the traditional forms packages this year. Instead, postcards reminding filers of their reporting responsibilities were mailed to all filers of record in early March 2004. These postcards included information on how filers can request paper copies of the required forms, schedules and instructions.

This change was in response to feedback from EFAST and the filing community that indicated an ever-increasing trend among filers to use EFAST-approved software as opposed to the government-printed material.



Form 5500

Additional information on the [Form 5500](#) and [Form 5500-EZ](#) (including an updated list of filing tips and the “Troubleshooter’s Guide to Filing the ERISA Annual Report”) can be found at “Form 5500 Information” by clicking on “Retirement Source for Plan Sponsors/Employers” on the [Retirement Plans](#) web page. The EBSA web page www.dol.gov/ebsa also has Form 5500 information. Copies of the forms, schedules and instructions are also available from the IRS by calling (800) TAX-FORM.

Are You Using the Correct Address?

Speaking of [Form 5330](#) - and, frankly, who isn’t? - filers of this form are reminded that the correct address to use when actually filing the return is:

Internal Revenue Service Center
Ogden, Utah 84201

The *Where To File* instructions were updated in March 2002 and can be found on page 2 of the [Instructions for Form 5330](#).

Returns mailed to the former service centers experience delays in processing. ■

Common Mistakes in Preparing Form 5330

Filers of [Form 5330](#) (*Return of Excise Taxes Related to Employee Benefit Plans*) commonly make the following mistakes or errors in preparing their returns:

- Failure to sign the Form 5330.
- Leaving plan number blank or using an invalid plan number.
- Using a single Form 5330 to report two or more excise taxes that do not have the same filing due date and therefore may not be filed together.
- Failure to complete Lines 12a-12c in Part 1 when there is tax reflected on Line(s) 1-11.
- If Part VII is applicable, failure to check appropriate box on Line 26a (discrete or not discrete prohibited transaction) and Line 27 (corrected all prohibited transactions).
- Confusion in the relationship between Parts VII and IX of the Form 5330.

For further information, see the [Form 5330 Instructions](#) by visiting the [Retirement Plans](#) web page and clicking on the “Retirement Source for Plan Sponsors/Employers”. ■

Short Stories

Welcome back to Short Stories: the best in brief in the world of retirement. Our topics in this edition include:

- ***SB/SE Tax Calendar***: The IRS’s Small Business/Self-Employed Division has an information-filled web site, www.irs.gov/businesses/small, that has tons of material designed just for small business owners. One of the many helpful sections on their site is the Tax Calendar. The calendar includes important dates, filing tips and reminders for the small business owner.
- ***The Tax Forums are Here***: The [IRS Nationwide Tax Forums](#) are now being held. As of press time, there are three remaining Forums scheduled for New Orleans, San Antonio and Las Vegas. The Forums are designed for tax practitioners whose customers are primarily in the small business community. Topics at this year’s events include filing, preparing and appealing. The Employee Plans division of IRS will present seminars on “The ABCs of 401(k)s” and “No Fuss Retirement Plans”.
- ***ACT III***: The Advisory Committee on Taxation (ACT) is a council of private sector professionals that provides EP and the Tax Exempt/Government Entities (TE/GE) operating division of the IRS with recommendations and suggestions for improving customer service. Recently, the newest incarnation of ACT – the third such one – posted its report on the [Retirement Plans](#) web page. Included in the report are ACT’s ideas for plan checklists; the Retirement Plans web page; and plain-language small business retirement plan publications.

For more information on the ACT Report, go to the [Retirement Plans](#) web page, click on “More Topics” and go to “Reports of the ACT”. ■



Let's Just Take It One Three-Month Period at a Time

 = contribution

 = conference


 = file forms


Operating a retirement plan can be a time-consuming job. There are deadlines, not just for reports and forms but also for making contributions. There are conferences and seminars. And then there is information you need to give to participants.

So to help you navigate the retirement plan timeline, here is our month-by-month look at some of the important moments in the months to come. Please note that all of the filing dates below are for calendar-year plans - adjust the dates for non-calendar year plans:

 **August 17-19:** [2004 IRS Nationwide Tax Forum](#), New Orleans, LA


 **August 31-September 2:** [2004 IRS Nationwide Tax Forum](#), San Antonio, TX


 **September 8:** DOL Seminar: [Getting It Right – Know Your Fiduciary Responsibilities](#) - Burlington, MA


 **September 15:** Deadline for making final required minimum contributions for 2003 calendar-year money purchase and defined benefit plans.

 **September 14-16:** [2004 IRS Nationwide Tax Forum](#), Las Vegas, NV

 **September 23:** DOL Seminar: [Getting It Right – Know Your Fiduciary Responsibilities](#) - Phoenix, AZ

 **October 5:** DOL Seminar: [Getting It Right – Know Your Fiduciary Responsibilities](#) - Kansas City, MO

 **October 15:** File the 2003 [Form 5500](#), Annual Return/Report of Employee Benefit Plan or [Form 5500-EZ](#), Annual Return of One-Participant Pension Retirement Plan with DOL/EFast for those who filed for a 2 1/2 month extension prior to July 31.

 **October 15:** Third quarterly contribution due date for 2004 calendar-year defined benefit plans.

November 1: Last date for employers with [SIMPLE IRA plans](#) or SIMPLE 401(k) plans to notify eligible employees of salary reduction rights and of the type of employer contribution to be made.

For a comprehensive list of upcoming EP Educational Events, visit the [Retirement Plans](#) web page, select “Retirement Source for Plan Sponsors/Employers” and then “Upcoming EP Educational Events”. ■

